

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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STEPHEN GANNON, <i>individually and on behalf of</i>	:	
<i>all others similarly situated,</i>	:	
	:	1:22-cv-01675-GHW-JLC
Plaintiff,	:	
	:	<u>ORDER</u>
-against-	:	
	:	
YAN PING ASSOCIATION, INC., <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	
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GREGORY H. WOODS, United States District Judge:		

On September 22, 2023, Magistrate Judge Cott issued a Report and Recommendation (“R&R”) recommending that the Court grant Defendants’ 12(b)(1) motion to dismiss for lack of subject matter jurisdiction. Dkt. No. 59 at 9. In that R&R, Magistrate Judge Cott determined that Plaintiff’s amended complaint should be dismissed under F.R.C.P. 12(b)(1) for lack of standing under the Americans with Disabilities Act (“ADA”), adding that Plaintiff’s “failure to establish standing under the ADA defeats his state and city law claims as well.” *See id.*

A district court reviewing a magistrate judge’s report and recommendation “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Parties may raise specific, written objections to the report and recommendation within fourteen days of receiving a copy of the report. *Id.*; *see also* Fed. R. Civ. P. 72(b)(2). The Court reviews for clear error those parts of the report and recommendation to which no party has timely objected. 28 U.S.C. § 636(b)(1)(A); *Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008).

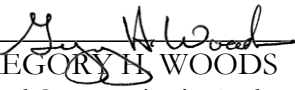
No objection to the R&R was submitted within the fourteen-day window. The Court has reviewed the R&R for clear error and finds none. *See Braunstein v. Barber*, No. 06 Civ. 5978 (CS)

(GAY), 2009 WL 1542707, at \*1 (S.D.N.Y. June 2, 2009) (explaining that a “district court may adopt those portions of a report and recommendation to which no objections have been made, as long as no clear error is apparent from the face of the record.”). The Court, therefore, accepts and adopts the R&R in its entirety. For the reasons articulated in the R&R, Defendants’ motion to dismiss Plaintiff’s amended complaint is granted without prejudice.

The Clerk of Court is directed to enter judgment for Defendants and to close this case.

SO ORDERED.

Dated: October 7, 2023

  
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GREGORY H. WOODS  
United States District Judge